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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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10/611,761

07/01/2003

Madonna M. Ray

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7590

06/11/2010

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EXAMINER

TRAN LIEN, THUY

ART UNIT

PAPER NUMBER

1781

MAIL DATE

DELIVERY MODE

06/11/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

|                              |                                      |                                   |  |
|------------------------------|--------------------------------------|-----------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/611,761 | <b>Applicant(s)</b><br>RAY ET AL. |  |
|                              | <b>Examiner</b><br>Lien T. Tran      | <b>Art Unit</b><br>1781           |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 May 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 36-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 36-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                     |                                                                   |
|-------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)         | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____                                                         | 6) <input type="checkbox"/> Other: _____                          |

Claims 36-42 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 36, the term “commercially produced shaped dough” is indefinite because it is not known what is intended or defined by such term. The specification does not define “commercially produced”; what would be considered as “commercially produced dough”.

Claim 39 has the same problem as claim 36; what would be considered as “commercially preparing”

Claims 36-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seneau ( 4861601) in view of the books “Breads”, “Baking with Julia”, “Professional Baking” and “How To Bake”.

Seneau discloses a proofed, par-baked, frozen dough product and a method of making it. The method comprises the steps of preparing a dough, proofing the dough, partially baking the dough and freezing the dough. Column 3 lines 43-45 discloses “a commercial batch of the product”; thus, the dough is a commercially produced shaped dough and the method includes the step “commercially preparing a dough”. The partially-baked dough can be fully baked after extended frozen storage. ( see columns 2-3)

Seneau does not disclose shaped dough having lobes, sections, portions, a plasticizing agent layer and the steps to obtain such sealing layer and lobes, sections and portions.

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The book "Breads" teaches to form a variety of intermediate dough products having aesthetic features such as lobes, section, portions or combination thereof. The book teaches various way is which dough is cut, shaped, stamped, slit etc. to create various configuration and design such as lobe, crown etc... The book also teaches brushing the dough before baking with glaze such as melted butter glazes to soften the crusts. The book also teaches to brush the dough with butter for a velvety finish. As shown on page 28, the brush is used to brush the tops with melted butter over the exposed surface of the roll. The dough is baked at 450 degree F.

The book "Baking with Julia" teaches to make different artisan breads by different cutting or indentation. For example, in making a pain fendu, the dough is indented and the indentation extends a substantially thickness of the dough to create two different sections. In making an epi, the dough is cut through a substantially part of the dough to create a wheat stalk appearance.

The "Professional Baking" book teaches the major functions of fats in baked items are to tenderize the product and soften the texture, to add moistness and richness, to increase keeping quality, to add flavor. The book also teaches that oil is used as a wash for some kinds of rolls. On pages 78-79, the book also teaches different cuts to the dough to create different looks to the end dough products.

The book "How to Bake" teaches to make different types of bread products. The book teaches to let the dough rise in a bowl after oiling all surfaces of the dough. The dough is then shaped. ( pages 41-42,44,46,51.

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The books shows that dough can be cut, indented, stamped etc. in many different ways to create different looks to the product. Some cuts can be a short, shallow slashes; other can go deeper. It would have been obvious to one skilled in the art at the time of the invention to cut, indent, stamp the Seneau dough as taught by the books to make different attractive dough baked products, It would also have been obvious to one skilled in the art at the time of the invention to oil the dough surface as taught by the book "How to Bake" or to brush the dough surface with butter as taught in the "Breads" and "Professional Baking" book to obtain the well known benefits of fats as taught in the books. The application of oil or fat softens the crusts, gives velvety finish. Fat is also taught to tenderize the product, soften the texture, add moistness and richness, increase keeping quality and add flavor. The "How to Bake" book teaches to oil the dough surfaces during rising and then shape the dough. The properties of reducing dehydration, improving organoleptic and aesthetic properties and fluidizing the dough are inherent in the Seneau dough in combination with the teachings of the cookbook. When the surface is coated with butter or oil, it is inherent a sealing layer is formed.

Applicant's arguments with respect to claims 36-42 have been considered but are moot in view of the new ground(s) of rejection.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien T. Tran whose telephone number is 571-272-1408. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

June 9, 2010

/Lien T Tran/

Primary Examiner, Art Unit 1781